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Mr. Hasfurther

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-202790

DATE: May 4, 1981

MATTER OF: Johnston Communications

DL606621

DIGEST:

[Protest against alleged improprieties in solicitation, apparent prior to closing date for receipt of initial proposals, is untimely and not for consideration on merits since filed after closing date.

By letter of April 3, received by our Office on April 7, Johnston Communications protested the alleged restrictiveness of the specifications used for Department of the Army request for proposals No. DAAK10-81-R-0095. Johnston contends that because of the specifications offerors are limited to the use of digital systems manufactured by only one or two firms.

We have been advised by the Department of the Army that this procurement was advertised in the Commerce Business Daily on January 15, 1981, and that Johnston was sent a copy of the solicitation on January 30. Four amendments were issued to the solicitation, the last on March 9. By letter of March 13, the contracting officer further clarified the specifications. Finally, it is stated, Johnston filed no protest with the contracting agency on the issue in question prior to the March 31 deadline for the receipt of initial proposals.

Johnston states that on or about March 27 it spoke with a contracting agency employee concerning the specifications and concluded that it was impossible for it to submit a bid which would comply with the specifications. Nevertheless, no protest was filed until after the closing date.

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It is provided in our Bid Protest Procedures, at 4 C.F.R. § 20.2(b)(1) (1980), that protests based upon alleged improprieties in a solicitation, which are apparent prior to the closing date for the receipt of initial proposals, must be filed prior to that closing date in order to be timely and for consideration on the merits. Johnston had all the information needed to determine whether it could comply with the specifications at least by March 27. Since the Johnston protest was filed with our Office after the closing date, it is untimely and will not be considered on the merits by our Office.

Accordingly, the protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel